

MINUTES

**MONTANA SENATE
58th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON BUSINESS AND LABOR

Call to Order: By **CHAIRMAN DALE MAHLUM**, on March 11, 2003 at 9 A.M., in Room 422 Capitol.

ROLL CALL

Members Present:

Sen. Dale Mahlum, Chairman (R)
Sen. Mike Sprague, Vice Chairman (R)
Sen. Sherm Anderson (R)
Sen. Vicki Cocchiarella (D)
Sen. Kelly Gebhardt (R)
Sen. Ken (Kim) Hansen (D)
Sen. Sam Kitzenberg (R)
Sen. Glenn Roush (D)
Sen. Don Ryan (D)
Sen. Carolyn Squires (D)

Members Excused:

Sen. Bob Keenan (R)
Sen. Fred Thomas (R)

Members Absent: None.

Staff Present: Sherrie Handel, Committee Secretary
Eddy McClure, Legislative Branch

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted: HB 110, 1/27/2003; HB 117,
1/17/2003; HB 126, 1/27/2003
Executive Action: HB 117, HB 110, HB 403, HB 104

{Tape: 1; Side: A}

HEARING ON HB 110

Sponsor: REPRESENTATIVE MIKE LANGE, HD 19, BILLINGS

Proponents: Jerry Driscoll, AFL/CIO; George Wood, Montana Self-Insurer's Association; Travis Ahner, Montana Trial Lawyers Association; Don Judge, Teamsters Local 190; Nancy Butler, Montana State Fund

Opponents: None

Informational Witness: Jerry Keck, Department of Labor and Industry

Opening Statement by Sponsor:

REP. MIKE LANGE, HD 19, BILLINGS, opened by saying that HB 110 was brought to his attention by an individual who worked at Colstrip and suffered a serious injury. The extent of his injuries required him to consult with numerous doctors and stay at numerous hospitals during his recovery. His insurance company was out of state and he had to pay approximately \$1,700 in co-pays. They drafted the bill to say the doctor co-pay would be eliminated, but the larger co-pay to the hospital would still have to be paid. REP. LANGE distributed and discussed an amendment to the bill, EXHIBIT (bus51a01) (HB011001.aem).

Proponents' Testimony:

Jerry Driscoll, AFL/CIO, rose in support of the bill and amendment.

George Wood, Montana Self-Insurer's Association, supported the bill and was thankful someone had caught the problem. He asked for the committee's support of the bill.

Travis Ahner, Montana Trial Lawyers Association, thought it was a good bill and stated that Don Judge, Teamsters Local 190, had to be at a meeting, but asked that Mr. Ahner offer their support of the bill.

Nancy Butler, Montana State Fund, said the State Fund typically uses managed care organizations. Because of that use, they did not institute the co-pay when a patient uses those organizations. From that perspective, the bill doesn't have any impact on the State Fund. She pointed out the applicability date in Section 2. Typically, in workers compensation bills, they apply to claims for injuries. She supported the bill.

Opponents' Testimony: None

Informational Witness Testimony:

Jerry Keck, Department of Labor and Industry, said there is only one private insurance carrier in the state who is imposing the co-pay requirement now. It only has about 1.5 percent of the market, so this bill will affect very few people.

Questions from Committee Members and Responses:

SEN. VICKI COCCHIARELLA referred to the applicability section and **Ms. Butler's** opinion of it. **Ms. Butler** referred to a Supreme Court decision and that this would be a different standard that could be confusing as far as applicability of law changes.

SEN. KELLY GEBHARDT offered that the way it is worded now, it is for treatment, so that would include all of the old claims as well as the new ones.

Closing by Sponsor:

REP. LANGE shared that the point of the bill was not to confuse anyone. The goal was to set a time frame and go forward. He support an amendment to changing the wording discussed. The advantage to this bill that future carriers who are not now doing business in Montana, when they do come to Montana, they will be encouraged to use the Preferred Provider List and the HMO system that we have.

HEARING ON HB 126

Sponsor: REPRESENTATIVE NANCY FRITZ, HD 69, MISSOULA

Proponents: Steve Bender, Department of Administration; Cort Jensen, Consumer Protection Office; Bob Bartholomew, AARP

Opponents: None

Opening Statement by Sponsor:

REPRESENTATIVE, NANCY FRITZ, HD 69, MISSOULA, introduced HB 126 which allows for the creation of special revenue accounts to handle money collected from fines and settlements in certain consumer protection and unfair trade cases. The money collected in these accounts would be used to investigate other ongoing

concerns in consumer protection or unfair trade, to compel the state's obligation in settlement, or to be returned to the General Fund. Montana was recently involved in regional state investigations for violations to the Fair Trade and Consumer Protection Laws. As a result, they have received some fairly significant settlements. This bill would allow the Department of Administration and the Attorney General's Office to slide these monies into the General Fund rather than waiting until the end of the biennium. She went on to explain each section of the bill.

Proponents' Testimony:

Steve Bender, Department of Administration, said they brought HB 126 before the committee to assist in solving the General Fund deficit. They proposed to divert awards for consumer protection and unfair trade cases similar to current law for telemarketing. It's their intent in doing so to fund the office from attorney fee awards primarily from multi-state cases. Multi-state cases are a new area for Montana and are a newly found source of revenue for the state. It would allow them to use those dollars to fund the Office of Consumer Protection. There is no General Fund cost. Right now, in HB 2, there is a reduction of \$459K for the biennium contingent on passage of this bill.

Cort Jensen, Consumer Protection Office, offered support and any help with questions on the bill.

Bob Bartholomew, AARP, rose in support of HB 126 and offered written testimony, **EXHIBIT(bus51a02)**.

Opponents' Testimony: None

Questions from Committee Members and Responses:

SEN. CAROLYN SQUIRES remarked on **Mr. Bender's** comments that a \$459K amount would be in the General Fund should this bill not pass. **Mr. Bender** reiterated what he had said in his previous testimony.

SEN. SAM KITZENBERG asked **Mr. Jensen** if he is getting enough help in dealing with consumer fraud, could he do more with more staff, and to explain some of the fraud that goes on as well as the biggest industry in Canada. **Mr. Jensen** replied that one of the biggest industries in Canada is telemarketing fraud. It now rivals their lumber industry. The biggest source of consumer fraud comes out of Billings. He has requested an additional attorney, they could make more money for the state.

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Mr. Jensen discussed some of the cases his office handles.

SEN. KELLY GEBHARDT stated that **Mr. Jensen's** funding himself would be an impropriety and that the money should go through the General Fund. **Mr. Jensen** agreed that there is a real danger when you start making a patrol officer write tickets to pay his salary. **SEN. GEBHARDT** asked **Mr. Bender** his thoughts on the appropriateness of funding the Consumer Protection Office this way. **Mr. Bender** agreed it could be a conflict of interest.

SEN. VICKI COCCHIARELLA requested information from **Mr. Bender** on how this will work. **Mr. Bender** explained that he has it designed to avoid a real conflict of interest and went on to tell how he can approve General Fund loans.

SEN. DON RYAN questioned **Mr. Bender** about where any fines and collections can at this time. He said multi-state case money follows the losses/language in those settlements. That language is affected by the lead state.

Closing by Sponsor:

REP. FRITZ said that timing is the big issue and that we would be able to move these funds into the General Fund more rapidly because of this bill.

HEARING ON HB 117

Sponsor: REPRESENTATIVE CHRISTINE KAUFMANN, HD 53,

Proponents: Don Hoffman, Department of Revenue

Opponents: None

Opening Statement by Sponsor:

REPRESENTATIVE CHRISTINE KAUFMANN, HD 53, said that HB 117 is a housekeeping bill for the Department of Revenue that clarifies a few things in the unemployment insurance taxes. She went on to explain each section of the bill.

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She said this bill is good for taxpayers and the department was present to add valuable testimony.

Proponents' Testimony:

Don Hoffman, Department of Revenue, shared just one thing that **REP. KAUFMANN** had not covered. He said his department was cited in a legislative audit for not having these things in writing. The intent of this bill is to make it easier for the taxpayer have these corrections occur when it is an error the state has made.

Opponents' Testimony: None**Questions from Committee Members and Responses:**

SEN. MIKE SPRAGUE commented to **Mr. Hoffman** on page 3, lines 4 through 6 and asked if that is existing law. **Mr. Hoffman** replied that it is current law.

SEN. VICKI COCCHIARELLA asked **Mr. Hoffman** to clarify that employers may call the department on the phone and say a mistake was made on the department and have it remedied. That is exactly what this is saying according to **Mr. Hoffman**.

Closing by Sponsor:

REP. KAUFMANN shared that this bill allows the department to benefit the taxpayer in a greater way by waiving the fees and reducing paperwork. She said it's good for government and taxpayers. She said she would be happy if **SEN. COCCHIARELLA** would carry the bill should it pass.

EXECUTIVE ACTION ON HB 117

Motion/Vote: **SEN. GEBHARDT** moved that HB 117 BE CONCURRED IN. Motion carried 9-0. **SEN. VICKI COCCHIARELLA WILL CARRY THE BILL.**

EXECUTIVE ACTION ON HB 110

Motion/Vote: **SEN. COCCHIARELLA** moved that HB 110 BE CONCURRED IN AS AMENDED. Motion carried 9-0. **SEN. VICKI COCCHIARELLA WILL CARRY THE BILL.**

EXECUTIVE ACTION ON HB 403

Motion: SEN. COCCHIARELLA moved that HB 403 BE CONCURRED IN.

{Tape: 2; Side: B}

Motion/Vote: SEN. ANDERSON moved that HB 403 BE CONCURRED IN AS AMENDED, **EXHIBIT**(bus51a03) (HB040301.aem). Motion carried 9-0. SEN. SHERM ANDERSON WILL CARRY THE BILL.

EXECUTIVE ACTION ON HB 104

Motion: SEN. RYAN moved that HB 104 BE CONCURRED IN.

Motion/Vote: SEN. GEBHARDT moved that HB 104 BE CONCURRED IN AS AMENDED, **EXHIBIT**(bus51a04) (HB010401.aem). Motion carried 9-0. SEN. CAROLYN SQUIRES WILL CARRY THE BILL.

EXECUTIVE ACTION ON HB 76

Motion/Vote: SEN. RYAN moved that HB 76 BE CONCURRED IN. Motion carried 9-0.

Motion: SEN. GEBHARDT moved that HB 76 BE CONCURRED IN AS AMENDED, **EXHIBIT**(bus51a05) (HB007601.aem).

Discussion: SEN. GEBHARDT withdrew his motion after a discussion involving payment to legislators raised more questions. Executive action will be taken at a later date.

ADJOURNMENT

Adjournment: 10:38 A.M.

SEN. DALE MAHLUM, Chairman

SHERRIE HANDEL, Secretary

DM/SH

EXHIBIT (bus51aad)